

Philippine Close Corporations

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Dean Cesar Villanueva herein invites the reader to analyze the extent of how the present provisions of the Corporation Code have institutionalized close corporations as vehicles for commercial endeavors in the Philippines. He begins by saying that a cursory reading of the Code will give the impression that close corporations are regarded more as exceptional cases, while publicly-held corporations, the general rule. This bias remains, he continues, despite significant changes in the Philippine corporate setting.

Title XII of the Code is then discussed, which provides for the specific grants to close corporations. The recognition of the said grants by the Supreme Court prior to the Code's enactment signifies that they are available even to *de facto* corporations (and therefore even to publicly-held corporations). The grants are: (a) classification of shares and restriction on transfer; (b) classification of directors; (c) provisions for greater quorum or voting requirements; (d) stockholders as managers of the corporation; (e) agreements among stockholders; (f) board meetings unnecessary; (g) pre-emptive rights; and (h) deadlocks and dissolutions.

Dean Villanueva notes that with the formal recognition of a close corporation under Title XII of the Code, there can be no application of the Doctrine of Piercing the Veil of Corporate Fiction to a close corporation as defined under Section 96 thereof, when precisely such corporation is intended merely as an alter ego or conduit of stockholders. The corporate defenses of limited liability are still accessible to stockholders of such close corporations. Whereas, since *de facto* close corporations have not been accorded with legal recognition, they would be prone to the application of the doctrine for being mere conduits or alter egos of their stockholders.

The Author concludes saying that notwithstanding the lack of provisions in the Code that deal with *de facto* close corporations, by and large, the same may avail of the advantages and grants similar to those given to *de jure* close corporations.